

Amend Section 170 of the Revenue and Taxation Code to revise the property tax disaster relief provisions to: 1) permit assessor initiated reductions generally, 2) give taxpayers more time to file a claim, 3) give taxpayers more time to file an appeal, and 4) increase the eligibility threshold level to \$10,000.

Source: Taxpayers' Rights Advocate

Under existing law, property taxes may be reduced following a disaster, misfortune, or calamity in those counties where the board of supervisors has adopted an ordinance authorizing the disaster relief provisions of Section 170 of the Revenue and Taxation Code. Disaster relief is provided by allowing the county assessor, under specified conditions, to reassess the property after the lien date to recognize the loss in a property's market value. The prior assessed value of the damaged property is reduced in proportion to the loss in market value; the new reduced value is used to calculate a pro-rata reduction in taxes. The affected property retains its lower value, with reduced taxes, until it is restored, repaired, or reconstructed.

To receive the disaster relief, the property owner must file an application with the county assessor within 60 days of the date of the disaster to initiate reassessment. Alternatively, if the owner does not file an application and the assessor determines that within the preceding 6 months the property had suffered damage caused by misfortune or calamity that may qualify the property owner for relief, the assessor may send an application to the property owner which restarts a new filing period. The taxpayer may file within 30 days of the date the application is sent by the assessor (but in no case more than 6 months after the date of the disaster). In some cases the assessor may reassess the damaged property even though the owner did not file an application, but only with the approval of the board of supervisors.

This proposal would revise these disaster relief provisions as follows:

Assessor Initiation. The disaster relief provisions of Section 170 apply to both disasters affecting many properties, such as an earthquake, and individual properties, such as a home fire. When assessors become aware of property damaged or destroyed, via the media on well-publicized disasters, such as earthquakes, large scale fires, floods, mudslides, or fire reports acquired from the fire department, they do not have the authority to commence reassessment to give property owners tax relief. Instead, they must wait until they receive an application from the affected property owner. Assessors may initiate reassessment pursuant to subdivision (l) of Section 170. However, this provision has been interpreted to require that assessors seek approval from the board of supervisors on specific properties in question on a case by case basis rather than as a grant of general authority in all cases.

Assessors encourage property owners to file an application by sending them an application by mail and extending the period to file an application from the date of this mailing. But, after a disaster, filing for property tax relief may be a low priority for persons affected or, in the worst case, the property owner may have been killed in the misfortune or calamity.

Given the interpretation that the provisions of subdivision (l) are limited, this proposal would amend subdivision (a) to clearly state that the board of supervisors may grant the assessor general authority to initiate reassessments upon discovery. If granted, assessors could begin the reassessment process on properties which in their judgment qualify without an application from the property owner. However, in those counties where the board of supervisors does not grant the assessor general authority under subdivision (a), the assessor could still seek specific authority from the board of supervisors on individual properties under subdivision (l).

Claim Filing Period. For non-assessor initiated reassessments, this proposal would extend the time frame for taxpayers to file an application for reassessment from 6 months to 12 months. Additionally, it would ensure that taxpayers are provided a minimum of 12 months to file an application in every county. These disaster victims should be afforded with a generous period of time to make their claim. After a disaster in which they have lost their possessions, this proposal would grant additional time to those who have less presence of mind, resources, and necessary documentation than under normal circumstances.

Appeal Filing Period. A taxpayer may disagree with the assessor's reassessment of property to reflect a decline in value after a misfortune or calamity and wish to file an appeal to challenge the value. Once the assessor mails the taxpayer a notice of reassessment with the new value, the taxpayer has 14 days to file an appeal. However, in most other cases, a taxpayer has 60 days to file an assessment appeal after receiving a notice of reassessment. In disaster situations, a taxpayer should have at least, but preferably more, time to file an appeal. Consequently, it is recommended that the 14 day period be increased to 6 months.

Minimum Damage Requirement. Under existing law, there must be at least \$5,000 worth of damage to receive property tax disaster relief. In administering these provisions, assessors are finding that where the amount of damage is small or where the property is quickly repaired, the administrative cost to grant the relief (reappraise the property both before and after the damage, prepare roll corrections to reduce the value, issue tax refunds and then once repaired reinstate the value with additional roll corrections and issue new tax bills) has come to exceed the amount of relief actually given. For example, if a property sustained only \$5,000 worth of damage and the property is left unrepaired for the full tax year, the property tax relief would be at most \$50 (less if the property was repaired within the year). Conversely, the administrative cost to grant the relief will typically exceed \$50.

To reduce the number of instances where the cost to grant the relief is greater than the relief itself, this proposal would increase the threshold level to properties which have incurred at least \$10,000 of damage. Since the other provisions of this proposal could result in more instances where relief will be extended to victims, it is recommended that the threshold be increased to address the criticisms that these provisions are not a cost effective means of providing relief to disaster victims. This change is also consistent with previous increases in the minimum threshold level (\$500 in 1953; \$1,000 in 1968; \$5,000 in 1978.)

Section 170 of the Revenue and Taxation Code is amended to read:

170. (a) Notwithstanding any provision of law to the contrary, the board of supervisors may, by ordinance, provide that every assessee of any taxable property, or any person liable for the taxes thereon, whose property was damaged or destroyed without his or her fault, may apply for reassessment of that property as provided herein. In addition, the ordinance may specify that the assessor may initiate such reassessment where the assessor determines that within the preceding twelve months taxable property located in the county was damaged or destroyed.

To be eligible for reassessment the damage or destruction to the property shall have been caused by any of the following:

(1) A major misfortune or calamity, in an area or region subsequently proclaimed by the Governor to be in a state of disaster, if that property was damaged or destroyed by the major misfortune or calamity that caused the Governor to proclaim the area or region to be in a state of disaster. As used in this paragraph "damage" includes a diminution in the value of property as a result of restricted access to the property where that restricted access was caused by the major misfortune or calamity.

(2) A misfortune or calamity.

(3) A misfortune or calamity that, with respect to a possessory interest in land owned by the state or federal government has caused the permit or other right to enter upon the land to be suspended or restricted. As used in this paragraph, "misfortune or calamity" includes a drought condition such as existed in this state in 1976 and 1977.

The application for reassessment may be filed within the time specified in the ordinance, ~~or, if no time is specified, or within 60 days~~ twelve months of the misfortune or calamity, whichever is later, by delivering to the assessor a written application requesting reassessment showing the condition and value, if any, of the property immediately after the damage or destruction, and the dollar amount of the damage. The application shall be executed under penalty of perjury, or if executed outside the State of California, verified by affidavit.

An ordinance may be made applicable to a major misfortune or calamity specified in paragraph (1) or to any misfortune or calamity specified in paragraph (2), or to both, as the board of supervisors determines. An ordinance may not be made applicable to a misfortune or calamity specified in paragraph (3), unless an ordinance making paragraph (2) applicable is operative in the county. The ordinance may specify a period of time within which the ordinance shall be effective, and, if no period of time is specified, it shall remain in effect until repealed.

(b) Upon receiving a proper application, the assessor shall appraise the property and determine separately the full cash value of land, improvements and personalty immediately before and after the damage or destruction. If the sum of the full cash values of the land, improvements and personalty before the damage or destruction exceeds the sum of the values after the damage by ~~five-ten~~ thousand dollars (~~\$5,000~~ 10,000) or more, the assessor shall also separately determine the percentage reductions in value of land, improvements and personalty due to the damage or destruction. The assessor shall reduce the values appearing on the assessment roll by the percentages of damage or destruction computed pursuant to this subdivision, and the taxes due on the property shall be adjusted as provided in subdivision (e). However, the amount of the reduction shall not exceed the actual loss.

(c) The assessor shall notify the applicant in writing of the amount of the proposed reassessment. The notice shall state that the applicant may appeal the proposed reassessment to the local board of equalization within ~~14 days~~ six months of the date of mailing the notice. If an appeal is requested within the ~~14-day~~ six month period, the board shall hear and decide the matter as if the proposed reassessment had been entered on the roll as an assessment made outside the regular assessment period. The decision of the board regarding the damaged value of the property shall be final, provided that a decision of the local board of equalization regarding any reassessment made pursuant to this section shall create no presumption as regards the value of the affected property subsequent to the date of the damage.

Those reassessed values resulting from reductions in full cash value of amounts, as determined above, shall be forwarded to the auditor by the assessor or the clerk of the local equalization board as the case may be. The auditor shall enter the reassessed values on the roll. After being entered on the roll, those reassessed values shall not be subject to review, except by a court of competent jurisdiction.

(d) (1) If no application is made and the assessor determines that within the preceding ~~six~~ twelve months a property has suffered damage caused by misfortune or calamity that may qualify the property owner for relief under an ordinance adopted under this section, the assessor shall provide the last known owner of the property with an application for reassessment. The property owner shall file the completed application within ~~30~~ 60 days of date of the mailing on notification by the assessor but in no case more than ~~six~~

twelve months after the occurrence of said damage. Upon receipt of a properly completed, timely filed application, the property shall be reassessed in the same manner as required in subdivision (b).

(2) This subdivision shall not apply where the assessor initiated reassessment as provided in subdivision (a) or (l).

_(e) The tax rate fixed for property on the roll on which the property so reassessed appeared at the time of the misfortune or calamity, shall be applied to the amount of the reassessment as determined in accordance with this section and the assessee shall be liable for: (1) a prorated portion of the taxes that would have been due on the property for the current fiscal year had the misfortune or calamity not occurred, to be determined on the basis of the number of months in the current fiscal year prior to the misfortune or calamity; plus (2) a proration of the tax due on the property as reassessed in its damaged or destroyed condition, to be determined on the basis of the number of months in the fiscal year after the damage or destruction, including the month in which the damage was incurred. For purposes of applying the preceding calculation in prorating supplemental taxes, the term "fiscal year" means the portion of the tax year used to determine the adjusted amount of taxes due pursuant to subdivision (b) of Section 75.41. If the damage or destruction occurred after January 1 and before the beginning of the next fiscal year, the reassessment shall be utilized to determine the tax liability for the next fiscal year. However, if the property is fully restored during the next fiscal year, taxes due for that year shall be prorated based on the number of months in the year before and after the completion of restoration.

(f) Any tax paid in excess of the total tax due shall be refunded to the taxpayer pursuant to Chapter 5 (commencing with Section 5096) of Part 9, as an erroneously collected tax or by order of the board of supervisors without the necessity of a claim being filed pursuant to Chapter 5.

(g) The assessed value of the property in its damaged condition, as determined pursuant to subdivision (b) compounded annually by the inflation factor specified in subdivision (a) of Section 51, shall be the taxable value of the property until it is restored, repaired, reconstructed or other provisions of the law require the establishment of a new base year value.

If partial reconstruction, restoration, or repair has occurred on any subsequent lien date, the taxable value shall be increased by an amount determined by multiplying the difference between its factored base year value immediately before the calamity and its assessed value in its damaged condition by the percentage of the repair, reconstruction, or restoration completed on that lien date.

(h) (1) When the property is fully repaired, restored, or reconstructed, the assessor shall make an additional assessment or assessments in accordance with subparagraph (A) or (B) upon completion of the repair, restoration, or reconstruction:

(A) If the completion of the repair, restoration, or reconstruction occurs on or after January 1, but on or before May 31, then there shall be two additional assessments. The first additional assessment shall be the difference between the new taxable value as of the date of completion and the taxable value on the current roll. The second additional assessment shall be the difference between the new taxable value as of the date of completion and the taxable value to be enrolled on the roll being prepared.

(B) If the completion of the repair, restoration, or reconstruction occurs on or after June 1, but before the succeeding January 1, then the additional assessment shall be the difference between the new taxable value as of the date of completion and the taxable value on the current roll.

(2) On the lien date following completion of the repair, restoration, or reconstruction, the assessor shall enroll the new taxable value of the property as of that lien date.

(3) For purposes of this subdivision, "new taxable value" shall mean the lesser of the property's (A) full cash value, or (B) factored base year value or its factored base year value as adjusted pursuant to subdivision (c) of Section 70.

(i) The assessor may apply Chapter 3.5 (commencing with Section 75) of Part 0.5 in implementing this section, to the extent that chapter is consistent with this section.

(j) This section applies to all counties, whether operating under a charter or under the general laws of this state.

(k) Any ordinance in effect pursuant to Section 155.1, 155.13, or 155.14 shall remain in effect according to its terms as if that ordinance was adopted pursuant to this section, subject to the limitations of subdivision (b).

(l) When the assessor does not have the general authority pursuant to subdivision (a) to initiate reassessments, in lieu of subdivision (d), if no application is made and the assessor determines that within the preceding six twelve months a property has suffered damage caused by misfortune or calamity, that may qualify the property owner for relief under an ordinance adopted under this section, the assessor may, with the approval of the board of supervisors, reassess the particular property for which approval was granted as provided in subdivision (b) and notify the last known owner of the property of the reassessment.